



**Zoning Board of Appeals Minutes  
Tuesday, December 21, 2021  
5:30 P.M. – City Council Chambers, 2<sup>nd</sup> floor, City Hall  
425 East State Street  
Rockford, IL 61104  
779-348-7423**

**Present:**

**ZBA Members:**

Jennifer Spencer  
Craig Sockwell  
Jennifer Smith  
Dan Roszkowski  
Kim Johnsen

**Absent:**

Maurice Redd  
Tom Fabiano

**Staff:**

Megan McNeill – Assistant City Attorney  
Brenda Muniz – Land Use Planner  
Scott Capovilla - Planning and Zoning Manager  
Mike Rotolo- Fire Prevention Coordinator  
Jeremy Carter - Traffic Engineer

**Others:**

Camille Connell-Court Reporter (Planet Depos)  
Janessa Wilkins – Alderman  
Tuffy Quinonez – Alderman  
Applicants and Interested Parties

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Scott Capovilla explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

- The Chairman will call the address of the application.
- The Applicant or Representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board.
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name to the Zoning Board of Appeals secretary and the stenographer.
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.

- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party.
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

The ZBA meeting is not a final vote on any item. However, it is the only time in which the public may participate. After the ZBA meeting, the item moves on to the Code & Regulation Committee. Although the public is invited to attend the meeting, public input is not allowed at the committee meeting. The date of the Code & Regulation meeting will be Monday, January 10, 2022, at 5:30 PM in City Council Chambers (2nd floor of City Hall) as the second vote on these items. The third and final meeting in this process is the City Council. That vote is tentatively scheduled on Tuesday, January 18, 2022. If the item is laid over at the ZBA meeting, the next meeting is **Wednesday, January 19, 2022**. If for any reason the item is laid over at the committee level or on the City Council floor, the item is automatically laid over for two (2) weeks.

The meeting was called to order at 5:33 PM. A **MOTION** was made by Craig Sockwell to **APPROVE** the November 16, 2021 meeting minutes. The motion was **SECONDED** by Jennifer Spencer and **CARRIED** by a vote of 5-0.

**ZBA 003-21**

Applicant  
Ward 1

**111 South Perryville Road**

Lamar Advertising

**Special Use Permit** for the modification of an existing legally nonconforming billboard to an electronic graphic display billboard in a C-2, Limited Commercial Zoning District (**Referred back to ZBA by City Council**) **Laid over from July, August, September & October, November**

The Applicant requested a layover for this item.

A **MOTION** was made by Kim Johnsen to **LAYOVER** a Special Use Permit for the modification of an existing legally nonconforming billboard to an electronic graphic display billboard in a C-2, Limited Commercial Zoning District. The motion was **SECONDED** by Jennifer Spencer and **CARRIED** by a vote of 5-0.

**ZBA 049-21**

Applicant  
Ward 13

**622 Tay Street**

Nathan Gottschalk for Northwest Recovery

**Special Use Permit** for outdoor storage of towed passenger vehicles up to full-size work vans and trucks in an I-2, General Industrial Zoning District, **Laid over from October and November**

Last month, the Applicant had requested a layover for two months.

A **MOTION** was made by Kim Johnsen to **LAYOVER** a Special Use Permit for outdoor storage of towed passenger vehicles up to full-size work vans and trucks in an I-2, General Industrial Zoning District. The Motion was **SECONDED** by Jennifer Spencer and **CARRIED** by a vote of 5-0.

**ZBA 056-21**

Applicant

**1367 Brown Hills Road**

Jason and Victoria Wenger

Ward 3

**Variation** to reduce the front yard setback requirements for an in-ground pool from 30 feet to 21'4" along Greenmount Street and a **Variation** to increase the fence height from four (4) feet to five (5) feet in the front yard along Greenmount Street in an R-1, Single family Residential Zoning District

The Applicant, Jason Wenger, was present. Mr. Wenger explained that there was a submittal to request variances for setbacks. He said the property is very unique in the sense that it has three (3) right-of-ways based on the zoning code. Mr. Wenger stated this is the reason for this Variation request to allow the swimming pool within the front yard setback although it functions as their backyard. No questions were presented by the board members.

No objectors or interested parties were present. Jennifer Spencer indicated that this item had been approved by the Historic Preservation Commission.

Staff Recommendation was for Approval.

A **MOTION** was made by Jennifer Smith to **APPROVE** a Variation to reduce the front yard setback requirements for an in-ground pool from 30 feet to 21'4" along Greenmount Street and a Variation to increase the fence height from four (4) feet to five (5) feet in the front yard along Greenmount Street in an R-1, Single family Residential Zoning District. The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 5-0.

Approval is based on the following conditions:

1. The pool and fence will be constructed per the location as shown in Exhibit D.
2. The fence type and material will be per Exhibit F as approved by the History Preservation Commission.

**FINDINGS OF FACT FOR APPROVAL OF A VARIATION  
TO REDUCE THE FRONT YARD SETBACK REQUIREMENTS FOR AN IN-GROUND POOL FROM  
30 FEET TO 21'4" ALONG GREENMOUNT STREET  
IN A R-1, SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT  
LOCATED AT 1367 BROWN HILLS ROAD**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**FINDINGS OF FACT FOR APPROVAL OF A VARIATION  
TO INCREASE THE FENCE HEIGHT FROM FOUR (4) FEET TO FIVE (5) FEET  
IN THE FRONT YARD ALONG GREENMOUNT STREET  
IN AN R-1, SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT  
LOCATED AT 1367 BROWN HILLS ROAD**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 057-21**

Applicant  
Ward 10

**3800 East State Street**

Justin Rednour

**Special Use Permit** for body art services (tattoo shop) in a C-2, Limited Commercial Zoning District

Josh Bauer, who is partners with the Applicant, was present. Mr. Bauer thanked the board for their time and wanted to give the board a brief speech. He indicated that among the three (3) business owners they ran a very successful shop in Roscoe named Ambitious Ink. For the last three (3) years, they have made an extra step to set themselves aside from other tattoo shops as evidenced by winning the best tattoo shop

in 2020. They thought it would be best to actually open a tattoo shop in Rockford. The name of the Rockford shop would be Gold Rose Hopes and to build the shop with family, love and artistry. Among the three (3) business owners, there is over 15 years of experience. They plan to work with the community in giving back and especially veterans and the healthcare workers. The location is across from Don Carter Lanes. The hours will be Tuesday through Saturday 12:00 PM to 8:00 PM.

Jennifer Smith asked the Applicant if the conditions of approval had been reviewed and if Mr. Bauer was in agreement. Mr. Bauer responded that he was in agreement. Ms. Smith asked if condition number 4 was something that could be done as the sign would need to be a landmark style since the Applicant did not own the property. Mr. Bauer agreed that he did not own the property but was still in agreement with the condition.

Scott Capovilla explained that the freestanding sign had been updated recently but the base had never been completed. The sign permit showed that sign base would be brick or stone. Normally, staff would have conducted an inspection of the area and this would have been caught. Mr. Capovilla stated since there is a request for a Special Use Permit for the property, they would condition this request in order to get it completed.

No objectors or interested parties were present. Staff Recommendation was for approval.

A **MOTION** was made by Kim Johnsen to **APPROVE** a Special Use Permit for body art service (tattoo shop) in a C-2, Limited Commercial Zoning District. The Motion was **SECONDED** by Jennifer Spencer and **CARRIED** by a vote of 5-0.

Approval is based on the following conditions:

1. Meet all Building and Fire Codes
2. Submittal of a Building Permit for Staff's review and approval.
3. The days and hours of operation will be Tuesday through Saturday from 12:00 PM to 8:00 PM.
4. The existing freestanding shopping center sign must have a brick or stone base added to the base of the sign as required.
5. All conditions must be met prior to establishment of use.

**FINDINGS OF FACT FOR APPROVAL OF A SPECIAL USE PERMIT  
FOR BODY ART SERVICES (TATTOO SHOP)  
IN A C-2, LIMITED COMMERCIAL ZONING DISTRICT  
LOCATED AT 3800 EAST STATE STREET**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the C-3 District in which it is located.

**ZBA 058-21**

Applicant  
Ward 14

**4592 Linden Road**

Attorney Sherry Harlan for Crusader Central Clinic Association  
**Zoning Map Amendment** from I-1, Light Industrial Zoning District to C-2, Limited Commercial Zoning District

Attorney Carol A. Lockwood was present representing Crusader Central Clinic Association. Attorney Lockwood indicated that she was covering for Attorney Harlan who was suffering from a family bereavement and was not able to attend tonight's meeting. Attorney Lockwood indicated that this application request is a straight forward request. There is a parcel with approximately 6.34 acres that is zoned industrial and Crusader would like to purchase the property and intends to build a medical facility to serve the community with medical service. Attorney Lockwood acknowledged staff's approval and has reviewed the report's comments provided and the Applicant is in agreement.

Kim Johnsen asked for clarification on the business name. Attorney Lockwood asked her client to confirm the correct name. A representative for Crusader confirmed that the business name is Crusader Health.

No interested parties or objectors were present. Staff Recommendation was for approval.

A **MOTION** was made by Craig Sockwell to **APPROVAL** a Zoning Map Amendment from I-1, Light Industrial Zoning District to C-2, Limited Commercial Zoning District. The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 5-0.

**FINDINGS OF FACT FOR APPROVAL OF A ZONING MAP AMENDMENT**  
**FROM I-1, LIGHT INDUSTRIAL ZONING DISTRICT TO**  
**C-2, LIMITED COMMERCIAL ZONING DISTRICT**  
**LOCATED AT 4592 LINDEN ROAD**

**Approval** of this Zoning Map Amendment is based upon the following findings:

- 1). The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with surrounding uses;
  - b. This proposal protects the character, scale and stability of the residential because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would not allow for a reasonable development to take place consistent with the RE zoning district.
- 2). The proposed Zoning Map Amendment is consistent with the approved general plan.

**ZBA 059-21**  
Applicant  
Ward 2

**2303 16<sup>th</sup> Avenue**  
Mi Reh

**Variation** to increase the maximum fence height permitted in the front yard from four feet to 8'4" for the existing fence along 19<sup>th</sup> Street and a Variation to increase the maximum fence height permitted in the side yard from six feet to 8'10" for the existing fence along the east property line in an R-1, Single family Residential Zoning District

Mi Reh was present with Roger Mills, the fence contractor. Mr. Mills was speaking on behalf of the Applicant due to a language barrier. Mr. Mills indicated that he was the person who built and designed the fence and for the property owner, Mi Reh. Mr. Mills indicated that he is requesting the fence height be increased from four feet to 8'4" along 19<sup>th</sup> Street and a Variation to increase the maximum fence height permitted in the side yard from six feet to 8'10" for the existing fence along the east property line in an R-1, Single family Residential Zoning District.

Kim Johnsen asked the Applicant why the request was in front of the board since this property was granted a Variation by the board to allow a six-foot high fence and why is there now a request to 8 foot. Mr. Mills responded that there is a grade difference in the lay of the land and the height of the property was higher than the sidewalk. The Variation request was necessary to maintain a six-foot fence around the entire yard. The lay of the land is different from the top to the bottom. If everything was perfect then it would not be an issue but the lot is not flat. The design of the fence was based on the lay of the land.

Jennifer Spencer clarified that there was a concern that the fence height was six-foot from the sidewalk and not the interior portion of the lot. The approval last month was based on the scenario of the fence height being from the sidewalk.

Ms. Johnsen indicated that there was confusion between the board members and Mr. Mills on where the measurement of the fence height is taken.

Dan Roszkowski indicated that Mr. Mills was asking for 8'4" from the sidewalk and not the interior portion of the lot.

Craig Sockwell asked to further asked for height clarification from Mr. Mills and asked if the base of the fence is included in the height and if the actual fence height was six-foot. If the base was one foot then the fence itself could only be five-foot. Mr. Mills responded that the height of the actual fence was six-foot and to be exact it was one inch under if measured from the lay of the land. Mr. Mills further indicated that if you took the measurement by the sidewalk, then it would exceed six-foot.

Ms. Johnsen explained to Mr. Mills that if the base was two foot then the fence would need to be constructed at four (4) feet. This measurement needs to be taken from the sidewalk. She indicated that the approval from the previous month was under the assumption that the total fence height would be a total of six feet from the sidewalk and not 8'4" and 8'10". Based on this information, the board is not comfortable with approving anything over six-foot.

Ms. Spencer indicated that the concern is that it is getting too high from the sidewalk level and the board wanted to make sure that it was only a total of 6 feet. Mr. Mills responded that it would be impossible to do a fence at that height. Ms. Spencer asked why it would be difficult for Mr. Mills to cut down the fence a couple of feet or inches. Mr. Mills asked if she had been to the site and she indicated that she had not but could tell from the pictures attached to staff's report. Mr. Mills said that the property needed to be walked.

Mr. Sockwell asked Mr. Mills if the base along the sidewalk was included in the calculation for total height and if the base was not there would he be able to install the fence. Mr. Mills responded no because of the

lay of the land drops about 20" from the house. Mr. Sockwell then clarified that the fence could not go on top of this base. Mr. Mills responded that was not possible because of the lay of the land. Mr. Sockwell said that he did not understand. Mr. Mills indicated that the lay of the land started at the top where the house was located and as the property went south, the lay of the land then changed. Mr. Mills explained again that the total fence height was at six-feet and if you went by the lay of the land then it would not be exceeding but if the measurement was taken at the sidewalk then it would be exceeding. Mr. Mills did not agree that the measurement should not be taken by the sidewalk.

Ms. Spencer indicated that the measurement made sense to be taken from that point (sidewalk) and that you had to consider the base and then reduce the fence height to make it a total of six-feet on the exterior side. Mr. Mills said that at the point there would not be a privacy fence. Mr. Mills suggested that the board members needed to go walk the property.

Ms. Johnsen indicated that she had driven by the property three times and felt it was lovely. However, she felt that the comprise would be to reduce the fence height by two feet to make it a total of six feet measured from the base along the sidewalk.

Mr. Mills indicated that he was told to change this request and that is what he was doing. He did not know why he was in front of the board members because it was back to stage one. Mr. Mills explained that he had spoken with the Alderman. The Alderman had indicated support with his request. However, he did not see the Alderman at the meeting.

Ms. Spencer asked that staff assist Mr. Mills in figuring out the reason why this item had been back with a different request for the Variation fence height.

Scott Capovilla explained that the board had approved a six-foot high fence last month. The lot slopes from the house as you head south on the property and along the side to the sidewalk. This is very common in older neighborhoods where the houses are setback 10 to 15 feet from the front property line. Because Mr. Mills did not place the fence by the house where six feet would be permitted, installed the fence at the sidewalk and then built up the grade to match the house thereby causing the fence height to be more than six feet. He built the ground up along the sidewalk and then place the six-foot fence on top of the area built up. When staff asked Mr. Mills if he wanted to reduce the fence height, he indicated that he did not want to do that and wanted to keep the fence as constructed. Staff had indicated that if he wanted to re-apply for the fence height, then he could do so as a new request. That is why Mr. Mills is present at this meeting. The previous request for a six-foot high fence is still pending in front of City Council. Mr. Capovilla reminded Mr. Mills that the board had approval for the previous request and because Mr. Mills did not want cut down the fence is the reason why the board is reviewing this request over eight feet. He further indicated that there was an arch that was built on a portion of the fence in the side yard that was adding height to the fence. In order to keep this portion of the fence, a Variation would need to be approved for 8'10" for that portion of the fence to remain as is since it is a side yard and cannot exceed the maximum height of six feet.

Ms. Spencer apologized for the confusion on this item and now understood the reason for this request. However, she indicated that the board members agreed with staff's recommendation of denial. Dan Roszkowski indicated that since the board had already approved a six-foot high fence last month, then there was nothing further the members needed to do with this item.

No interested parties were present. Staff Recommendation was for denial.

A **MOTION** was made by Jennifer Spencer for **DENIAL** of a Variation to increase the maximum fence height permitted in the front yard from four feet to 8'4" for the existing fence along 19<sup>th</sup> Street and a **DENIAL** Variation to increase the maximum fence height permitted in the side yard from six feet to 8'10"



for the existing fence along the east property line in an R-1, Single family Residential Zoning District. The Motion was **SECONDED** by Jennifer Smith and **CARRIED** by a vote of 6-0

Denial is based on the following finding of facts.

**FINDINGS OF FACT FOR DENIAL OF A VARIATION**  
**TO INCREASE THE MAXIMUM FENCE HEIGHT PERMITTED IN THE FRONT YARD FROM FOUR**  
**FEET TO 8'4" FOR THE EXISTING FENCE ALONG 19<sup>TH</sup> STREET**  
**IN AN R-1, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT**  
**LOCATED AT 2302 16<sup>TH</sup> AVENUE**

**Denial** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation is based are not unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

**FINDINGS OF FACT FOR DENIAL OF A VARIATION**  
**TO INCREASE THE MAXIMUM FENCE HEIGHT PERMITTED IN THE SIDE YARD FROM SIX FEET**  
**TO 8'10" FOR THE EXISTING FENCE ALONG THE EAST PROPERTY LINE**  
**IN AN R-1, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT**  
**LOCATED AT 2302 16<sup>TH</sup> AVENUE**

**Denial** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

2. The conditions upon which a petition for this Variation is not based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

A **MOTION** was made by Jennifer Smith to **APPROVE** the new Zoning Board of Appeals 2022 schedule. The motion was **SECONDED** by Jennifer Spencer and **CARRIED** by a vote of 5-0.

With no further business to come before the Board, the meeting was adjourned at 6:06 PM.

Respectfully submitted,  
Brenda Muniz, Land Use Planner  
Zoning Board of Appeals